

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Cory Wiltse & Lisette Hood,**  
Petitioner-Appellants,

v.

**Kossuth County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 09-55-0239**  
**Parcel No. 22-13-377-001**

On December 11, 2009, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Cory Wiltse and Lisette Hood, requested the appeal be considered without hearing and submitted evidence in support of their petition. They are self-represented. The Board of Review designated County Attorney Todd M. Holmes as its legal representative. It certified its record and also submitted evidence in support of its decision. The Appeal Board now having examined the entire record, and being fully advised, finds:

***Findings of Fact***

Cory Wiltse and Lisette Hood, owners of property located at 112 Meadow Ridge, Algona, Iowa, appeal from the Kossuth County Board of Review decision reassessing their property. According to the property record card, the subject property consists of a one-story frame dwelling with 1543 square feet of living area, a two-story addition with 1104 square feet of living area, a full basement with 1500 square feet of finished area, fifty-two linear feet of brick veneer, an open porch, and a 1002 square-foot attached three-car garage. The home has a grade 2 quality classification. The dwelling was built in 2007 and is situated on a 0.966 acre site. The dwelling was given a 10% functional obsolescence discount by the assessor for being over-built.

The real estate was classified as residential on the initial assessment of January 1, 2009, and valued at \$396,035, representing \$38,237 in land value and \$357,798 in dwelling value.

Wiltse and Hood protested to the Board of Review on the ground that the assessment was not equitable as compared with assessments of other like property in the taxing jurisdiction under Iowa Code section 441.37(1)(a). They claimed that \$350,000; allocated \$36,500 to land value and \$313,500 to the dwelling value, was the actual value and a fair assessment of the property. The Board of Review denied the protest stating that properties were not sufficiently comparable to prove inequity.

Wiltse and Hood filed their appeal with this Board and urged the same ground for relief. They submitted property record cards for five properties they considered comparable to the subject property in support of their equity claim. Their dwelling, however, has a higher grade classification, a larger site, larger garage, and more basement finish than any of the properties they submitted. One property, located at 205 River View, had more square feet of living area, but it was built in 1968, has a smaller garage, less basement finish, a lower grade quality classification, and a site that is less than one-third of the Wiltse/Hood site. Wiltse and Hood also contend that a dwelling in a country club/golf course community and those located on a lake are assessed the same or lower than theirs. In the certified record, they provided the Board of Review with a list of six dwellings including the assessment and total square footage of each, but no property record cards were submitted for these properties. We lack information such as dwelling age, basement finish, garage size, or site size, necessary to adequately compare these properties to theirs.

Kossuth County Assessor Don Patton submitted an affidavit and a list comparing the subject property with the properties offered by Wiltse and Hood. In his opinion, these properties are distinguishable from the subject property. According to Patton, the most comparable of the five properties is located at 1109 N. Country Club. It has 3064 total square feet of living area but lacks any



basement finish. We note from the property record card that it was built in 1995, has a smaller garage and site, and has a 3-5 grade quality classification.

Patton also submitted a recent sale of a property located at 500 Timber Estates. This property was built in 2001 and is more similar to the subject property in terms of total square feet of living area, basement finish, and grade classification. The property sold in 2008 for \$416,000 and is assessed for \$413,892. It does have a walkout basement, more brick veneer and an additional fireplace as compared to the subject property. The assessor's sale property has a larger rural residential site than the subject; however, the land assessments are approximately the same. We agree with the assessor that this sale price, which is closely aligned with the property's assessed value, offers a reasonable measure of the fair market value and an equitable assessment for the subject property.

Considering variables such as differences in total square foot of living area, age, site size, basement finish, garage size, and other features of the comparable properties offered, the subject property's assessment is inequitable. Reviewing all the evidence, we find that it is insufficient to support a conclusion that the Wiltse/Hood's January 1, 2009, assessed value is inequitable as compared to similar properties in the county.

#### *Conclusion of Law*

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

Wiltse and Hood claim their property is inequitably assessed. To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). In this appeal, evidence was not sufficient to prove inequity either by showing the assessor did not employ uniform methods or as required by these criteria.

Viewing the evidence as a whole, we determine Wiltse and Hood failed to prove, by a preponderance of the evidence, their claim of inequitable-assessment as of January 1, 2009. We affirm their property assessment as determined by the Board of Review. The property's assessed value as of January 1, 2009, is \$396,035, representing \$38,237 in land value and \$357,798 in dwelling value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Kossuth County Board of Review is affirmed.

Dated this 30 day of December 2009.

Jacqueline Rypma  
Jacqueline Rypma, Presiding Officer

Richard Stradley  
Richard Stradley, Board Member

Karen Oberman  
Karen Oberman, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>12-30</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>